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Paper No. 29

JOHN C HUNT
BLAKE CASSELS & GRAYDON
BOX 25 COMMERCE COURT WEST
28TH FLOOR
TORONTO, ONC M5L1A-9

In re Application of:
P. Martin Petkovich, et al.
Application No. 08/882,164
Filed: June 25, 1997
Attorney Docket No. 50767/00010
57600/22

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This is a decision on the petition under 37 C.F.R. §1.137(b), filed May 3, 2000, to revive the above-identified application.

This application became abandoned for failure to timely reply to the notice of allowance and issue fee due and notice of allowability, both mailed on September 14, 1999. A shortened statutory period of three (3) months was set for replying to the notice of allowability. The period for replying to a notice of allowance and issue fee due is statutorily set at three (3) months.¹ No reply was received within this time period.² Therefore, this application became abandoned for failure to reply to both notices as of December 15, 1999.³

The drawings shown as having been received in the PTO on February 10, 2000 have been approved by the Official Draftsman. All other requirements for the filing of a grantable petition under 37 C.F.R. §1.137(b) have been met. Therefore, this petition is **GRANTED**.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$380.00 extension of time fee submitted on February 10, 2000 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 02-2553. Further, Office finance records indicate that petitioner paid the advance order fee of \$30.00 on December 13, 1999, and again on May 3, 2000. The duplicate payment of \$30.00 will also be credited to petitioner's Deposit Account.

The application file is being remanded to Technology Center 1600 for a determination on the Petition under 37 C.F.R. §1.84(a), filed February 10, 2000.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Nelson B. Snyder III in the Office of Petitions at (703) 305-0011.

¹ 35 U.S.C. §151.

² Nor were any requests for extensions of time to respond to the Notice of Allowability received.

³ 35 U.S.C. §133, 37 C.F.R. §1.134-136.

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Christina T. Lautera for

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy